

ATTACHMENT 4

From: Easterlin, Ben [mailto:BEasterlin@KSLAW.com]
Sent: Monday, December 03, 2007 3:32 PM
To: Berger, Bruce J.
Subject: deposition scheduling

Bruce, Here is what I am trying to accomplish. Please let me know if it will not work for you. If it does, I should know today if it can be accomplished. (1) get you Taylor's corrections by Friday; (2) proceed with the deposition the following Friday, 12/14. According to Jack, the 8/07 F/S will not be ready in time for a deposition in January. The reason is that Dixon Hughes will not have finished its review before then. However, the F/S is not expected to change any of the numbers from what will be reflected in the Taylor document and from Jack's deposition testimony. I have not seen it, but I understand that the principal change in Taylor's report is that in light of NS' disagreement with separating the non-operating assets from the enterprise value, those assets are included. As I have previously mentioned, the result is a wash, as he adds the assets to the value, but also adds them to the liquidation proceeds. However, that may affect your questions, as among other possibilities, it means that specific numbers mentioned in various subjects listed in the 30(b)(6) notice no longer exist, certain areas of inquiry such as the apportionment of costs between liquidating operating and non-operating assets may be moot, and new numbers not in the notice now exist. This raises several issues. First, I will not limit you to the items in the notice and allow questions addressing the new document from Taylor and anything else regarding liquidation not covered in a previous deposition without the need for a new notice, as long as the inquiry reasonably addresses liquidation. Second, once you receive the document, you will have to decide if a week is enough time to study the information produced and prepare for the deposition. (3) when the 8/07 F/S is produced, you can resume the deposition to inquire about that document if you wish. In that event, we will waive the current deposition designation deadline for that deposition and agree on a new deadline for any designations, counter-designations, and objections. I understand that the F/S will be according to liquidation accounting principles. Thus, it make look different from prior F/S' in some respects, and you may want to question Jack to understand how it reconciles. But, I am told that it really does not change amounts, just format. I am just waiting on word from Taylor that he can promise his report by Friday to know if the foregoing is possible.

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